

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 941

Introduced by Senators Monning and DeSaulnier
(Coauthor: Assembly Member Buchanan)

February 4, 2014

An act to add Article 1.4 (commencing with Section 678) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as amended, Monning. Vessel operator cards.

(1) Existing law prohibits the operation or navigation of a for-hire vessel, as defined, in the waters of California while carrying passengers, except by a person who holds a valid operator's license issued by the Division of Boating and Waterways. Under existing law, a person applying for an operator's license is required to undergo an examination, that may include, among other things, an inspection of the for-hire vessel.

Existing law requires the division to approve boating safety courses and personal watercraft education courses, as specified.

This bill would prohibit the operation of a vessel that is propelled by an engine in the waters of the state except by a person who is in possession of a valid vessel operator card developed and issued by the division, and would impose that prohibition on persons pursuant to a specified schedule. The bill would exempt certain persons from that requirement, as specified.

The bill would require the division, on or before January 1, 2018, to develop vessel operator cards and issue a vessel operator card to a person who provides the division with proof that the person has passed a vessel operator examination and would authorize the division to develop an examination. The bill would require the division to provide links to approved examinations on its Internet Web site. The bill would require the division to charge specified fees for those cards, would establish the Vessel Operator Certification Account in the Harbors and Watercraft Revolving Fund, and would require the fees to be deposited in that account. The bill would authorize the division to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the vessel operator card program.

The bill would require an amount not to exceed \$4,000,000 to be transferred, upon appropriation in the annual Budget Act, from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program. The bill would require the division to repay the loan from fees received from the issuance of vessel operator cards within 8 years of the effective date of this act.

The bill would require the division on or before April 1, 2019, and annually thereafter, to prepare a report that contains specified information, including, among other things, the total number of vessel operator cards issued and the number of violations reported to the division. The bill would also require the division on or before April 1, 2023, and again on April 1, 2028, to post on its Internet Web site specified recommendations relating to the program.

The bill would provide that a violation of the bill's provisions is an infraction, and would require a court to order a person who violates those provisions to complete and pass a boating safety course approved by the division. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 1.4 (commencing with Section 678) is
2 added to Chapter 5 of Division 3 of the Harbors and Navigation
3 Code, to read:

4
5 Article 1.4. Vessel Operators' Education and Certification Cards

6
7 678. (a) On or before January 1, 2018, the division shall
8 develop a vessel operator card to be issued pursuant to this article.

9 (b) The division shall issue, or cause to be issued, a vessel
10 operator card to a person who provides the division with proof that
11 the person has passed a vessel operator examination approved by
12 the division or a vessel operator course that includes an
13 examination and is approved by the division pursuant to Section
14 668.1 or 668.3.

15 (c) A vessel operator card shall be valid for the life of the person
16 to whom it is issued.

17 678.3. (a) (1) The division shall determine the fees required
18 under this section in amounts sufficient to cover the reasonable
19 costs of the development, establishment, and operation of the
20 program. The fees shall not exceed those costs.

21 (2) The division shall charge a fee not to exceed thirty dollars
22 (\$30) for the initial vessel operator card issued pursuant to
23 subdivision (b) of Section 678.

24 (3) The division shall charge a fee not to exceed ten dollars
25 (\$10) for a duplicate vessel operator card issued pursuant to
26 subdivision (b) of Section 678.

27 (b) In determining the amount of the fees imposed pursuant to
28 this section, the division shall establish, and consult with, a
29 technical advisory group consisting of interested persons, including,
30 but not limited to, representatives of the boating community. The
31 director shall appoint the members of the advisory group.

32 (c) The fees collected pursuant to this section shall be deposited
33 in the Vessel Operator Certification Account, which is hereby
34 established within the Harbors and Watercraft Revolving Fund.

35 (d) The division may expend the moneys in the Vessel Operator
36 Certification Account, upon appropriation by the Legislature, for
37 purposes of implementing this article.

1 678.5. (a) The division may develop and provide a vessel
2 operator examination on the division's Internet Web site. The
3 division shall provide links from the division's Internet Web site
4 to other vessel operator examinations approved by the division
5 that are available through a provider whose course has been
6 approved by the National Association of State Boating Law
7 Administrators.

8 (b) If the division contracts for the provision of vessel operator
9 examination services with test vendors, the division shall conduct
10 a formal competitive bid process and shall contract with more than
11 one vendor for those services.

12 (c) A vessel operator examination developed or approved by
13 the division shall be consistent with the National Association of
14 State Boating Law Administrators' National Boating Education
15 Standards, as applicable to basic vessel operations, rules of
16 navigation, and boating safety only.

17 678.7. (a) An amount not to exceed four million dollars
18 (\$4,000,000) shall, upon appropriation in the annual Budget Act,
19 be transferred from the Harbors and Watercraft Revolving Fund
20 to the Vessel Operator Certification Account in the form of a loan
21 to be used by the division to develop and establish the program
22 under this article.

23 (b) The division shall repay the loan described in subdivision
24 (a) from fees received pursuant to Section 678.3 within eight years
25 of the effective date of this article.

26 (c) If the division has not repaid the loan within the time period
27 specified in subdivision (b), the division shall notify the Joint
28 Legislative Budget Committee.

29 (d) The loan shall not impair the intended expenditure purposes
30 of the Harbors and Watercraft Revolving Fund.

31 678.9. (a) On or before April 1, 2019, and on or before April
32 1 annually thereafter, the division shall prepare a report that
33 includes all of the following information with respect to the prior
34 calendar year:

35 (1) The total number of vessel operator cards issued pursuant
36 to this article.

37 (2) The fees collected, and the costs incurred, by the division
38 pursuant to this article.

39 (3) The correlation between vessel operator cards issued and
40 the number of accidents, injuries, and fatalities related to the

1 operation of vessels in the state that are reported pursuant to
2 Section 656.

3 (4) The number of violations of this article reported to the
4 division.

5 (b) The report shall be posted on the division's Internet Web
6 site.

7 (c) On or before April 1, 2023, and again on April 1, 2028, the
8 report prepared by the division and posted on its Internet Web site
9 shall include recommendations, developed by the division, in
10 consultation with the technical advisory group established pursuant
11 to subdivision (b) of Section 678.3, relating to any program changes
12 to improve boater safety in California or, alternatively, reasons
13 why the program should not be continued.

14 678.11. (a) Subject to the schedule in subdivision (b), a person
15 shall not operate on waters subject to the jurisdiction of the state
16 a vessel that is propelled by an engine, regardless of whether the
17 engine is the principal source of propulsion, unless the person has
18 in his or her possession a vessel operator card issued by the division
19 pursuant to subdivision (b) of Section 678.

20 (b) A person is subject to subdivision (a) according to the
21 following schedule:

22 (1) On and after January 1, 2018: A person 20 years of age or
23 younger.

24 (2) On and after January 1, 2019: A person 25 years of age or
25 younger.

26 (3) On and after January 1, 2020: A person 35 years of age or
27 younger.

28 (4) On and after January 1, 2021: A person 40 years of age or
29 younger.

30 (5) On and after January 1, 2022: A person 45 years of age or
31 younger.

32 (6) On and after January 1, 2023: A person 50 years of age or
33 younger.

34 (7) On and after January 1, 2024: A person 60 years of age or
35 younger.

36 (8) On and after January 1, 2025: All persons, regardless of age.

37 (c) This section does not apply to any of the following:

38 (1) A person who is a resident of another state or a foreign
39 country who is operating a vessel and meets either of the following
40 requirements:

1 (A) The person is temporarily using the waters of this state for
2 a period not to exceed 60 days, and meets the applicable
3 requirements, if any, of his or her state of residency.

4 (B) The person is temporarily using the waters of this state for
5 a period not to exceed 90 days, and meets the applicable
6 requirements, if any, of his or her country of residency.

7 (2) A person operating a vessel while under the direct
8 supervision of a person 18 years of age or older who is in
9 possession of a vessel operator card issued pursuant to subdivision
10 (b) of Section 678 or who is not required to possess a vessel
11 operator card pursuant to paragraph (6).

12 (3) A person operating a vessel in an organized regatta or vessel
13 race, or water ski race.

14 (4) A person operating a rental vessel.

15 (5) A person who is in possession of a current commercial
16 fishing license.

17 (6) A person who is in possession of a valid marine operator
18 license, for the waters upon which the licensee is operating, issued
19 by the United States Coast Guard, or who is in possession of a
20 valid certificate issued pursuant to the International Convention
21 on Standards of Training, Certification and Watchkeeping for
22 Seafarers, 1978, as amended.

23 (7) *A person who has successfully completed a boating course*
24 *approved by the Commission on Peace Officer Standards and*
25 *Training.*

26 678.15. (a) A violation of this article is an infraction.

27 (b) A person convicted of an infraction for a violation of this
28 article shall be punished as follows:

29 (1) For an initial conviction, by a fine of not more than one
30 hundred dollars (\$100).

31 (2) For a second conviction, by a fine of not more than two
32 hundred fifty dollars (\$250).

33 (3) For a third or subsequent conviction, by a fine of not more
34 than five hundred dollars (\$500).

35 (c) A fine imposed on a vessel operator pursuant to subdivision
36 (b) shall be waived, if the vessel operator provides proof that he
37 or she had a valid vessel operator card at the time of the citation.

38 (d) (1) In addition to the fines imposed by subdivision (b), the
39 court shall order a person convicted of violating this article to

1 complete and pass a boating safety course approved by the division
2 pursuant to Section 668.3.

3 (2) If a person who is ordered to complete and pass a boating
4 safety course pursuant to paragraph (1) is 18 years of age or
5 younger, the court may require that person to obtain the consent
6 of a parent or guardian to enroll in that course.

7 (3) A person who has been ordered by a court to complete a
8 boating safety course pursuant to paragraph (1) shall submit to the
9 court proof of completion and passage of the course within seven
10 months of the date of his or her conviction. The proof shall be in
11 a form that has been approved by the division and that is capable
12 of being submitted to the court or a state or local agency approved
13 by the division through the United States Postal Service or another
14 certified means of transmission.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.